

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 10 September 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), A Bell, L Brown, J Clark, S Deinali, J Elmer, L A Holmes, D McKenna, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillors I Cochrane, C Kay, R Manchester and K Robson.

2 Substitute Members

There were no Substitute Members.

3 Minutes

The minutes of the meeting held on 9 July 2024 and Special meeting held on 22 July 2024 were confirmed as correct records by the Committee and signed by the Chair.

4 Declarations of Interest

There were no Declarations of Interest.

5 Applications to be determined by the Area Planning Committee (Central and East)

a DM/24/01045/FPA - 63 Frank Street, Gilesgate Moor, Durham, DH1 2JF

The Principal Planning Officer, Paul Hopper gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from dwellinghouse (C3) to a house in multiple occupation (C4) including single storey extension, cycle parking and bin storage to rear and formation of car parking area to front and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer referred Members to site plans, noting the Tesco store and Dragonville Retail Park to the east of the application site. He referred Members to site plans and photographs, and existing and proposed layouts for the property.

Councillor LA Holmes entered the meeting at 9.36am

The Principal Planning Officer explained that objections to the application had been received from Belmont Parish Council and Local Councillors E Mavin and L Mavin, with further representations from Local Councillor C Fletcher having been submitted, to be read out by the Committee Services Officer in due course. He noted that reasons cited included there being no demonstrated need for further student accommodation, as well as the application being harmful in terms of the local environment, parking and highway safety. He noted there were no objections raised by the Council's Highways Section.

The Principal Planning Officer noted no objections from internal consultees, including HMO (Houses in Multiple Occupation) Licensing, HMO Data and Environmental Health, subject to the condition set out within the report. He noted that the material considerations were set out within the report, with County Durham Plan (CDP) Policy 16, Part 3 being relevant, with there being less than the 10 percent threshold, in terms of Class N exempt properties within a 100 metres radius. He added that in terms of the character and appearance of the area, noting that all works, except those in relation to parking, were to the rear of the property, and noted the single storey extension was subservient to the main property and did not impact in terms of overshadowing. He explained that there was adequate parking in-curtilage and therefore there was no adverse impact in terms of highway safety.

The Principal Planning Officer noted that Condition 6, within the report, set out that the property would be occupied by no more than five persons, preventing use by more people or further subdivision. He concluded by noting that as Officers felt the application was in line with policy, it was recommended for approval, subject to the conditions as set out within the report.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway thanked the Chair and Committee and noted that local views were material and should be taken into account in determining planning applications, highlighting that all three local County Councillors had submitted their objections to the application, as had many local residents that had approached the Parish Council, despite there being no formal objections from residents on the Planning Portal.

Parish Councillor P Conway explained the application was contrary to County Durham Plan (CDP) Policies 16, 21, 29 and 31 and in variance with Parts 2, 5 and 8 of the National Planning Policy Framework (NPPF). He referred to appeals decisions which the Parish Council felt had been given undue weight within the report, the report suggesting a precedent had been set, with costs awarded in some cases. He noted Inspectors were not bound by previous decisions by other Inspectors. He added that previous appeal decisions were not more significant than relevant policies and noted paragraph 84 of the report noted each application should be looked at on its own merits.

Parish Councillor P Conway noted that family home with a family resident 52 weeks a year would be replaced by a transient group, resident only around 30 weeks a year, noting the loss in Council Tax. He added that in effect, residents were subsidising the profits of landlords. He added the transient nature of the tenants meant that they contributed little to the local community. Parish Councillor P Conway added that often the visual appearance of HMO properties and garden was poor.

In respect of Policy 16, Parish Councillor P Conway noted that the 10 percent threshold was often referred to as the 'tipping point', however, Policy 16 also referred to, within its narrative, that development should ensure inclusive and mixed communities, stating the impact that HMOs can have. He added that in reference to 63 Frank Street specifically, Belmont Parish Council felt there had been no demonstration of demand for these types of property, with the preparation for the 102-page Belmont and Gilesgate Neighbourhood Plan, where views had been canvassed. He added that the view from Estate Agents had been there was in fact demand for family homes, low-cost affordable properties to enable people to get on to the property ladder.

Parish Councillor P Conway noted that paragraphs 61 and 62 of the Officer's report made reference to overshadowing, however, the property next door also appeared to be owned by the applicant, and Parish Councillor P Conway queried whether a more lenient approach had been taken concerning that aspect. He added that the closures currently on Mill Lane, for up to 12 months, was a considerable disruption to traffic for St. Hild's Church of England and St. Joseph's Roman Catholic Primary Schools and the impact upon the bus route along Sunderland Road. Parish Councillor P Conway explained that the Parish Council has suggested a number of improvements to the current arrangements in terms of the road closures, noting many more people were using Frank Street as access due to the closure. He noted that therefore, if the Committee were minded to approve the application, the Parish Council would ask that the permission not be implemented until the Purpose Built Student Accommodation (PBSA) on Sherburn Road was complete.

Parish Councillor P Conway noted that on a number of occasions the Parish Council had asked for a review of CDP Policy 16 and reiterated that the residents of Belmont Parish felt that the policy was not fit for purpose, as evidenced by the number of applications that had been objected to or commented upon. He explained that local residents did not feel as if they were being listened to. He noted that planning reports appeared to stem from a 'development is good' perspective, however, the NPPF had a number of caveats that the Parish Council felt were not being given sufficient weight.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Local County Councillors E Mavin and L Mavin.

"As County Councillors for the area, Eric Mavin and I, Lesley Mavin, wish to formally object to this planning application, DM/24/01647/FPA Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey rear extension, formation of car parking area, cycle parking and bin storage 63 Frank Street, Gilesgate Moor, Durham DH1 2JF.

We believe it contravenes the following policies of the CDP for the following reasons:

Policy 16

This states that the council should 'promote and preserve inclusive, mixed and balanced communities and to protect residential amenity'.

Due to the proliferation of HMOs within this area, we feel this application fails to satisfy Policy 16 3 b, and this clearly influences the balance of the local community in relation to both residents and students.

The university itself has stated that there is no need for any further student accommodation within the city and surrounding areas. As there are also 800 fewer students this year, this need is even less.

Policy 29

This concerns sustainable design, and we argue that removing more C3 housing stock, of which there is already a significant shortage, from a community where there is already unused, empty C4 houses, the viability in the area as a sustainable community will be reduced.

Policy 31

This relates to amenity and pollution, and again we argue that by creating a cluster of HMOs in a single area the occurrence of transient anti-social noise within the street will increase which will in turn negatively affect the character of the area and the amenity of its residents.

Policy 21

This policy requires that all new developments ensure that any vehicular traffic generated by new developments do not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. This planning application relies on the unrestricted on street parking on Laurel Avenue and states no further parking spaces would be needed. Suitable car parking spaces have not been provided. Laurel Avenue has a local school, which already causes parking and obstruction issues.

We are requesting for these reasons this application be refused”.

The Committee Services Officer read out a statement on behalf of Local County Councillor C Fletcher.

“As a County Councillor for the area, I, Christine Fletcher, wish to formally object to this planning application, DM/24/01647/FPA - Change of use from dwellinghouse (C3) to small house in multiple occupation (HMO) (C4) including single storey rear extension, formation of car parking area, cycle parking and bin storage 63 Frank Street, Gilesgate Moor, Durham DH1 2JF. I believe it contravenes the following policies of the CDP for the following reasons:

Policy 16 - This states that the council should ‘promote and preserve inclusive, mixed and balanced communities and to protect residential amenity’.

There is a very large purpose built student block at Ernest Place at the end of Frank Street which struggles to fill the rooms there. It is currently advertising that it has availability for this year for undergraduates, post graduates and international students.

Another large PBSA called Regatta Place is currently under construction on Sherburn Road and will provide accommodation for a further 140 students in Gilesgate.

Due to the proliferation of HMOs within this area, this application fails to satisfy Policy 16 3 b, and this clearly influences the balance of the local community in relation to both residents and students.

The university itself has stated that there is no need for any further student accommodation within the city and surrounding areas. As there are also 800 fewer students this year, this need is even less.

Policy 29 - This concerns sustainable design. There is already a shortage of housing stock in the community and there are empty C\$ houses. By removing more C3 housing stock, of which there is already a significant shortage, the viability in the area as a sustainable community will be reduced.

Policy 31 - This relates to amenity and pollution, and again we argue that by creating a cluster of HMOs in a single area the occurrence of transient anti-social noise within the street will increase which will in turn negatively affect the character of the area and the amenity of its residents.

Policy 21 - This policy requires that all new developments ensure that any vehicular traffic generated by new developments do not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. Frank street is already a narrow, congested road and this development has the potential to cause further congestion.

I request that for these reasons this application be refused".

The Chair thanked the Committee Services Officer and asked Gary Swarbrick, Agent for the applicant, to speak in support of the application.

G Swarbrick noted a number of other similar applications and appeals decisions had helped to provide clarity in respect of CDP Policy 16. He noted that any objections in terms of need were not relevant under Policy 16, where the 10 percent Class N, Council Tax exempt threshold had not been met. He reiterated that recent appeals decisions noted that, where under the 10 percent threshold, such applications did not undermine the sustainability of communities, did not impact upon residential amenity and design.

He added that in respect of the application, the scale and massing were such to not impact significantly, as outlined within the Officer's report. He added that there was sufficient in-curtilage parking provided to satisfy the Parking Supplementary Planning Document (SPD) and car usage within the student cohort was low and there was very good public transport links in the area. He added that as the impact in respect of parking was not any greater than the current use, there had been no objections from the Highways Section, as noted by the Planning Officer.

G Swarbrick concluded by noting that the application was in line with CDP policies and the NPPF and asked that the Committee endorse their Officer's recommendation for approval.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor L Brown noted that, should the Committee be minded to approve the application, she would ask that an amendment to the hours of operation be made, with the start time being put back from 0730 to 0800 to help protect the residential amenity of those living in proximity to the application property.

Councillor L Brown noted that a lot had been said in meetings as regards CDP Policy 16(b), however, there had not been a lot said as regards Policy 16(c). She noted paragraph 42 of the Officer's report referred to Policy 16(c) and noted that an application would not be approved if *'less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus'*. Councillor L Brown asked if a map of the area could be displayed on the projector screen. She noted that the application property was equidistant from bus stops at Sherburn Road and Sunderland Road, and it looked as if Frank Street was the primary route from the nearby PBSA at Ernst Place. She explained that three planning applications in her Electoral Division had been dismissed, with one having also been dismissed at appeal on a similar basis and therefore she would say the application before Committee was also contrary to Policy 16(c).

Councillor J Clark noted she agreed with the comments of Councillor L Brown in respect of a 0800 start for any works, to protect residents' amenity. In respect of parking arrangements, she noted the three spaces provided and asked whether there was a dropped kerb along the full length of those spaces. The Highway Development Manager, Phil Harrison noted that as agreed under Section 184 (Highway Act) works, dropped kerbs would be the along the whole length of the spaces.

Councillor J Clark noted that therefore works could prove difficult and impact upon parking in the street, with the dropped kerb adding to this difficulty. She noted the amount of traffic that would be using Frank Street, as described from the PBSAs and the schools, and noted potential impact reporting in terms of noise from an HMO next door, noting they may have been more if a family home.

Councillor A Surtees asked as regards the 10 percent threshold and the 140 place PBSA being built at the former bingo hall at Sherburn Road and whether it was included within the 10 percent or would not until the construction was complete. The Principal Planning Officer noted that it would be included at the point it was occupied, and it would count as one property in terms of policy.

The Chair asked for comment from Officers in terms of the points raised by Councillor L Brown in reference to Policy 16(c). The Principal Planning Officer noted that, as within the report and presentation, Officers were comfortable that the property was not on a primary access route, noting there were bus stops both to the north and south of the property, with footpath access to those, alongside the PBSA. He added that it was for students to choose which route and reiterated that therefore Officers felt the property was not on a primary access route and therefore the application was in line with Policy 16(c), although the decision on the application was for Members.

Councillor J Elmer noted he supported the position of Councillor L Brown, adding he felt the property was on a primary access route, with bus stops being at each end. He added with the narrowness of the road, it being already busy and with additional people to be walking up and down this road, he felt that Policy 16(c) was appropriate.

Councillor D Oliver noted that opinions were subjective and added that it felt to him that the street was a residential street, and that Policy 16(c) did not apply. He added that he did not see the street as a primary route and did not see any reason to go against the Officer's recommendation.

Councillor L Brown noted she disagreed with Councillor D Oliver, and moved that the application be refused, being contrary to Policy 16(c).

The Principal Planning Officer noted that in the event the committee took the position that the primary access route for students using Ernst Place PBSA to the main university campus and city centre was from Front Street to the south (via Frank Street), this would suggest the route to the north, via Sunderland Road, was not a primary route and that this may have implications for future applications.

Councillor J Elmer seconded the motion for refusal. Councillor L Brown noted the precedent in terms of the application previously referred to and supported by Inspector.

Councillor L Brown moved refusal, seconded by Councillor J Elmer and upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as the introduction of a C4 house in multiple occupation within this locale would, due to its location on a primary access route from an existing Purpose Built Student Accommodation (PBSA) to the City Centre, result in further imbalance in the community and have a detrimental impact on surrounding residential amenities through increased noise and disturbance contrary to Policies 16, 29 and 31 of the County Durham Plan, and paragraph 130 (f) of the National Planning Policy Framework.